

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Kevin A. Gray et al.

Application Number: 10/532,944

Filed: 06/21/2006

Title: Amylases, nucleic acids encoding them and methods for making and using them

Group Art Unit: 1652

Examiner: RAGHU, GANAPATHIRAM

Confirmation Number: 2689

Request For Reconsideration Of Patent Term Adjustment
Under 37 C.F.R. § 1.705

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir,

Further to the USPTO Notice of allowance mailed on January 7, 2010, informing the applicant that the patent term adjustment until the notice allowance of this patent application is 24 days, applicants hereby respectfully request reconsideration of the patent term adjustment (PTA) for the above mentioned patent application.

A copy of the notice of allowance has been attached.

Applicants request reconsideration of the patent term adjustment for the above noted application in light of the recent decision on January 7, 2010 from the United States District Court for the District of Columbia in Wyeth v. Kappos, case No. 2009-1120 (Judge James Robertson).

The court issued the decision finding that the U.S. Patent and Trademark Office's interpretation of the PTA statute is incorrect and the periods of 35 U.S.C. §154(b)(2)(A) delay "overlap" with 35 U.S.C. §154(b)(2)(B) delay only if they occur on the same day.

Applicants have recalculated PTA for the above mentioned patent under the court's interpretation of the PTA statute and have determined that the patent is entitled to 441 days PTA on the date of issue. Applicants hereby request to reconsider the total PTA at issue as 441 days.

PTO Delay A (days): 150

PTO Delay B (days): 356

Overlap (days): None

Applicant Delay (days): $58 + 7 = 65$ days

PTA Calculation: (PTO Delay A + PTO Delay B - Overlap - Applicant delay)

PTA = $(150 + 356 - 0 - 65) = 441$ days

The attached sheet provides details of the circumstances during the prosecution of the application resulting in the patent that constitutes a failure to engage in reasonable efforts to conclude processing or examination of an application.

A fee in compliance with the requirement under 37 CFR 1.705(b)(1) is attached hereto.

Respectfully Submitted

Dated: April 28, 2010

By /Jennifer Risser/
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Document	Date	PTO Delay (A)	PTO Delay (B)	Applicant Delay	Overla p
Expected issue date of the patent (28 weeks from notice of allowance)	07-20-2010				
Notice of Allowance and Fees Due (PTOL-85)	01-07-2010				
Amendment/Req. Reconsideration-After Non-Final Reject	11-20-2009				
Applicant response Due	09-22-2009				
Non-Final Rejection	06-22-2009				
Request for Continued Examination (RCE)	04-21-2009		356		
Amendment/Req. Reconsideration-After Non-Final Reject	10-29-2008			58	
Applicant response Due	09-01-2008				
Non-Final Rejection	05-30-2008				
3 years from Commencement of National stage	04-30-2008				
Response to Election / Restriction Filed	04-25-2008			7	
Applicant response Due	04-18-2008				
Requirement for Restriction/Election	01-18-2008	150			
PTO response Due	08-21-2007				
Patent application Date	06-21-2006				
30 months from Priority date (Commencement of National stage)	04-30-2005				
Priority date(US Provisional Application "60/423626")	10-31-2002				



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS
P.O. Box 1480
Alexandria, Virginia 22304-1480
www.uspto.gov

NOTICE OF ALLOWANCE AND FEE(S) DUE

48974 7890 04/07/2010
VERENUM CORPORATION
Intellectual Property Department
P.O. Box 910550
SAN DIEGO, CA 92191-0550

EXAMINER	
RACHU, GANAPATHIRAM	
ART UNIT	PAPER NUMBER
1652	
DATE MAILED: 04/07/2010	

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	AUTODOCK DOCKET NO.	CONFIRMATION NO.
10/532,944	06/21/2006	Kevin A. Gray	131530-0N	2689

TITLE OF INVENTION: AMYLASES, NUCLEIC ACIDS ENCODING THEM AND METHODS FOR MAKING AND USING THEM

APPL. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$755	\$330	\$0	\$1085	04/07/2010

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

- A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.
- B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

- A. Pay TOTAL FEE(S) DUE shown above, or
- B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fees to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence (including the Patent, advance orders and notification of maintenance fees) will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS: Check Use Block 1 for any change of address

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

43673 7890 91072616
VERNIUM CORPORATION
Intellectual Property Department
P.O. Box 910550
SAN DIEGO, CA 92191-0550

Certificate of Mailing or Transmission
 I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	AUTHORNEY DOCKET NO.	CONFIRMATION NO.
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10632,944 08/21/2008 Kevin A. Gray D15,30-0N 2669

TITLE OF INVENTION: AMYLASES, NUCLEIC ACIDS ENCODING THEM AND METHODS FOR MAKING AND USING THEM

APPL. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREP. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE PAID
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nonprovisional YES \$755 \$300 90 \$1055 04/07/2010

EXAMINER	ART UNIT	CLASS. SUBCLASS
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RAGHEL, GANAPATHIRAM 1652 425-182000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363) <input type="checkbox"/> Change of correspondence address for Change of Correspondence Address form PTO/SB/122 attached. <input type="checkbox"/> "Fee Address" indication on "Fee Address" Indication form PTO/SB/147, Rev. 03-02, or more recent) attached. Use of a Customer Number is required.	2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.
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3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 1.311. Completion of this form is NOT a substitution for filing an assignment.

(A) NAME OF ASSIGNEE: (B) RESIDENCE (CITY and STATE OR COUNTRY):

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted: <input type="checkbox"/> Issue Fee <input type="checkbox"/> Publication Fee (No small entity discount permitted) <input type="checkbox"/> Advance Order - # of Copies	4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above) <input type="checkbox"/> A check is enclosed. <input type="checkbox"/> Payment by credit card. Item PTO-2036 is attached. <input type="checkbox"/> The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number (enclose an extra copy of this form).
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5. Change in Entity Status (from status indicated above) <input type="checkbox"/> a. Applicant claims SMALL ENTITY status. See 37 CFR 1.47.	<input type="checkbox"/> b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.47(g)(2).
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NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant, a registered attorney or agent, or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature Date
 Typed or printed name Registration No.

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.314. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY LOCKET NO.	CONFIRMATION NO.
10512344	09/21/2006	Kevin A. Gray	01530-96	889
40975 7599 01/19/2010			EXAMINER	
VERENUM CORPORATION Intellectual Property Department P.O. Box 910550 SAN DIEGO, CA 92191-0550			RAGHU, GANAPATHIRAM	
			ART UNIT	PAPER NUMBER
			1602	
			DATE MAILED: 03/07/2010	

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 24 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 24 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.